

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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DEPUY SPINE, INC. and  
BIEDERMANN MOTECH GMBH,  
Plaintiffs

v.

CIVIL ACTION NO.:  
01-10165-EFH

MEDTRONIC SOFAMOR DANEK, INC.  
f/k/a SOFAMOR DANEK GROUP, INC.,  
and MEDTRONIC SOFAMOR DANEK  
USA, INC.,  
Defendants.

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VERDICT # 1

1. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw literally infringes Claim 1 of the '678 patent?

Answer YES or NO.

NO

2. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw infringes Claim 1 of the '678 patent under the doctrine of equivalents?

Answer YES or NO.

Yes

3. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw literally infringes Claim 3 of the '678 patent?

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Answer YES or NO.

NO

4. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw infringes Claim 3 of the '678 patent under the doctrine of equivalents?

Answer YES or NO.

Yes

5. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw literally infringes Claim 5 of the '678 patent?

Answer YES or NO.

NO

6. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw infringes Claim 5 of the '678 patent under the doctrine of equivalents?

Answer YES or NO.

Yes

7. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw literally infringes Claim 6 of the '678 patent?

Answer YES or NO.

NO

8. Do you find that the plaintiffs have established by a preponderance of the evidence that defendants' MAS screw infringes Claim 6 of the '678 patent under the doctrine of equivalents?

Answer YES or NO.

Yes

If you answered YES to any of the Question Nos. 1 through 8, answer Question Nos. 9, 10, 11 and 12; if you answered NO to all of the Question Nos. 1 through 8, do not answer any further questions.

9. Do you find that the plaintiffs have established by a preponderance of the evidence that they are entitled to recover their lost profits from the infringement?

Answer YES or NO.

Yes

If you answered YES to Question No. 9, answer Question No. 10; if you answered NO to Question No. 9, do not answer Question No. 10, but answer Question Nos. 11 and 12.

10. Please state the amount of profits you find plaintiffs to have lost as a result of the infringement.

\$ 9 Million

11. For an infringement for which plaintiffs are not entitled to recover their lost profits, please state the rate, as a percentage of the sales price of the infringing goods you find that plaintiffs have established by a preponderance of the evidence to be a reasonable royalty to be awarded plaintiffs.

10% %

12. What amount of money do you find that the plaintiffs have established by a preponderance of the evidence to be the full amount of their royalties due from the defendants?

\$ #12 Million

10/1/04  
Date

Will K. Mann  
FOREPERSON